

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, May 18, 2011
10:00 a.m.
Sacramento, California
&
West Covina, California

TO: Members of the California Occupational Safety and Health Appeals Board

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: May 5, 2011

RE: Closed Session of the Board to be held on May 18, 2011

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), and (e) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.

DECISION OF ADMINISTRATIVE LAW JUDGE:

(Written decision issued by an Administrative Law Judge. The decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)

1. AGRI-VALLEY IRRIGATION, INC., 07-R2D5-3784 THROUGH 3786
2. ASV WINES, INC., 09-R1D2-1225 AND 1226
3. BALTAZAR CORP. DBA IMPERIAL DELTA, 10-R6D2-1220 THROUGH 1227 and 10-R6D2-1872 AND 1873
4. CPF MASONRY, 10-R4D3-3338 THROUGH 3340
5. JAIME R. ORTEGA DBA ORTEGA'S AUTOBODY & TOWING, 10-R6D5-1406 THROUGH 1408
6. SHAMROCK STRUCTURES, INC., 09-R1D1-2282 AND 2283
7. STAFFCHEX, 10-R4D3-2456 THROUGH 2458

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8. SWISS WOODWORKING, INC., 10-R6D2-1316 THROUGH 1319

9. VAN GRONINGEN & SONS, INC., 09-R2D4-2431

ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

1. 7-11 MATERIALS, INC., 10-R5D3-3492

2. A+ WATERWORKS, INC., 09-R2D2-2495

3. AMERICAN APPAREL, 10-R4D1-1862 THROUGH 1864

4. AMPCO CONTRACTING, INC., 10-R3D3-4021

5. ANITSA, INC., VALET SERVICES, 10-R4D2-2843 AND 2844

6. JOSEPH ANTICEVICH & IGNACIO CORDERO DBA C & R FARM, 10-R6D5-2652

7. ARVINYL METAL LAMINATES CORP., 10-R3D3-3539 AND 3540

8. ASA PRODUCE, 10-R4D2-2580 THROUGH 2582

9. AT&T, 09-R1D2-2775 THROUGH 2777

10. BRADLEY COMPONENT SUPPLIES, INC. DBA S & M PALLETS,
11-R3D5-0058 AND 0059

11. BRAWLEY CITY WATER TREATMENT, 10-R6D4-0758 THROUGH 0760

12. C. R. CASNER CONSTRUCTION CO., 11-R4D3-0277

13. CHAPMAN BROOKHURST, INC. DBA CHAPMAN AVE. CAR WASH,
10-R6D5-3260 THROUGH 3262

14. CHU, INC. BACCALI CAFÉ, 10-R6D5-3880

15. CITY OF TORRANCE – FIRE DEPARTMENT, 11-R3D5-0417

16. CLARK STEEL FABRICATORS, INC., 10-R6D2-0700 THROUGH 0703

17. COAST PERSONNEL STAFFING, 10-R1D2-0067

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18. COMMERCIAL MEAT CO., INC., 10-R6D2-2478 THROUGH 2482
19. CURB SPECIALIST, INC. DBA QUALITY FIRST CONCRETE, 10-R3D1-3359
20. E. E. HALL, INC., 10-R4D3-3155
21. EASTMAN LANDSCAPES, INC., 10-R6D5-4049
22. ENGINEERED MACHINERY CROUP, INC., 11-R3D3-0385
23. ANDREW ERICKSON DBA ANDREW ERICKSON CONSULTING,
09-R1D5-2537 THROUGH 2539
24. EXCALIBUR WELL SERVICE CORP., 09-R2D5-3306 AND 3307
25. FED EX FREIGHT, 10-R4D3-3415
26. FORT BRAGG UNIFIED SCHOOL DISTRICT, 11-R1D5-0485
27. GENERAL SEALANTS, INC., 10-R3D6-3643
28. GUADALUPE COOLING COMPANY, INC., 10-R4D3-3193 AND 3194
29. H & M WROUGHT IRON FACTORY, INC., 10-R6D2-4082 THROUGH 4086
30. HACIENDA HARVESTING, INC., 10-R4D3-3373 AND 3374
31. HARRIS SALINAS REBAR, 08-R1D2-0961
32. HEINZ NORTH AMERICA IN SAN DIEGO, 10-R6D4-2989
33. JOYFUL FARM, INC., 10-R3D3-3073 THROUGH 3075
34. KINGS HAWAIIAN BREAD, 10-R6D4-1019 THROUGH 1022
35. L.A. COUNTY OFFICE OF EDUCATION, 10-R4D2-3989
36. MCM CONSTRUCTION, INC., 09-R1D4-2492
37. MENZIES AVIATION DIV. OF JOHN MENZIES PLC, 09-R1D2-3215 THROUGH
3217
38. MORGAN HILL POLICE DEPARTMENT, 09-R1D2-2624
39. NOR-CAL SCAFFOLDING, INC., 09-R1D4-2640

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40. OCCIDENTAL OF ELK HILLS, INC., 10-R6D4-2919
41. OCHOA PACKING LLC, 10-R6D5-2210
42. ORANGE COUNTY HEALTH CARE AGENCY, 10-R3D1-2330
43. PALLET MASTERS, INC., 11-R3D5-0180 THROUGH 0184
44. PREMIUM PACKING, INC., 09-R6D3-2310 AND 2311
45. QUALITY FARM LABOR, INC., 09-R6D3-2529
46. R. J. NOBLE CO., 10-R3D1-3451
47. RAY'S PLASTERING COMPANY, 10-R4D2-3369
48. SAARMAN CONSTRUCTION LTD., 09-R1D4-2874
49. SAN DIEGO UNIFIED SCHOOL DISTRICT, 10-R3D2-2485 AND 2486
50. SIERRA ALUMINUM COMPANY, 11-R3D3-0388
51. STERIS ISOMEDIX SERVICES, INC., 10-R6D4-3605
52. STROER & GRAFF, INC., 11-R1D4-0346
53. TARULLI TIRE, INC., 10-R3D1-3629
54. U.C. LOS ANGELES, 11-R4D1-0084
55. VERDE PACIFIC REALTY, INC., 10-R1D1-0122
56. VIP COACH, 08-R2D5-3040 THROUGH 3045
57. WALDEN STRUCTURES, INC., 10-R3D3-4070
58. WORKFORCE OUTSOURCING, INC., 11-R3D5-0022 AND 0023
59. YRC, INC., 10-R6D2-2751 THROUGH 2753

ORDERS DISMISSING APPEALS:

1. AAA AUTO & BODY WORKS, INC., 09-R6D7-2270 AND 2271
2. HIGH SIERRA PAINT & DECORATING CO., INC., 10-R2D1-0406

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3. PAPPAS & COMPANY, 10-R2D5-0997
4. SECURITY PAVING, 10-R4D3-2550 AND 2551

STIPULATIONS:

1. TAHOE TRUCKEE SIERRA DISPOSAL CO., INC., 08-R2D1-1202 AND 1203
2. WORLD COLOR, 10-R3D3-1578 AND 1579

PETITIONS FOR RECONSIDERATION:

1. AC TRANSIT, 08-R1D4-4611
2. EQUITY WINDOWS & SIDING, INC., 11-R1D2-9061
3. HAM SUPREME SHOP, 11-R3D5-9065
4. SA RECYCLING LLC, 11-R2D5-9059

DENIALS OF PETITIONS FOR RECONSIDERATION (Drafts):

1. GATEWAY FRAMING, INC., 10-R2D3-1392
2. MAPLE GROVE GLUTEN FREE FOODS, INC., 10-R3D3-3208 AND 3209
3. MAPLE GROVE GLUTEN FREE FOODS, INC., 10-R3D3-3210 THROUGH 3216
4. ROSS PLASTERING, INC., 10-R3D1-2401

DECISIONS AFTER RECONSIDERATION (DRAFTS):

(If the Appeals Board grants a petition for reconsideration it reviews the facts of the appeal and then issues a decision after reconsideration upholding, reversing or modifying the underlying ALJ decision.)

1. A & C PALLETS, 10-R6D5-1687 AND 1688
2. AARON METALS COMPANY, INC., 09-R1D4-2137 AND 2138
3. AC TRANSIT, 08-R1D4-0135
4. AGWOOD MILL & LUMBER, INC., 08-R1D5-1068
5. ALT'S TOOL & MACHINE, 10-R6D2-2986 AND 3266

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6. VERNON MELVIN ANTONSEN & COLLEEN K. ANTONSEN, INDIVIDUALLY
DBA ANTONSEN CONSTRUCTION, 06-R2D3-1272
7. ANNING-JOHNSON COMPANY, 06-R1D3-1976
8. BAY AREA RAPID TRANSIT DISTRICT, 09-R2D2-1219 AND 1221
9. BIMBO BAKERIES USA, 05-R6D2-856 AND 857
10. BOBERG ENGINEERING & CONTRACTING, INC., 06-R3D3-4963
11. BRUNTON ENTERPRISES DBA PLAS-TAL MFG. CO.,
09-R6D2-2239 THROUGH 2241
12. BURBANK RECYCLING, INC., 10-R4D3-0562 AND 0563
13. BURRTEC WASTE INDUSTRIES, INC., 10-R3D3-9222
14. BURTON L. SILVA FARMS, 09-R1D2-1498
15. C & M FINE PACK, INC. 07-R6D2-4149 THROUGH 4155
16. C.C. MYERS, INC., 08-R1D1-952 THROUGH 955
17. CA CORRECTIONS, 08-R2D5-0975 THROUGH 0978
18. CA RASMUSSEN, INC., 08-R4D5-219 AND 220
19. CALIFORNIA INTERSTATE EXPRESS, 09-R4D2-3460
20. SILVIA CASTRO, MIGUEL CASTRO DBA SILVIA CASTRO FLC,
09-R2D4-1900
21. CLINE CELLARS, INC., 08-R1D5-2946
22. CJI PROCESS SYSTEMS, 09-R6D2-1333 THROUGH 1336
23. MARIA DE LOS ANGELES COLUNGA dba MERCED FARM LABOR
08-R6D5-3466 AND 3467
24. COMMERCIAL METAL FORMING, 09-R3D1-1592
25. CONTRA COSTA ELECTRIC, INC., 09-R1D4-3271, 3272 AND 3960
26. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387

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27. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
28. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
29. JOSEFF-HOLLYWOOD, 09-R6D2-3914 THROUGH 3919
30. DESIGN BUILDERS, INC., 08-R4D4-1901
31. JOAQUIN DUARTE DBA PROFESSIONAL TREE SERVICE, 09-R3D3-1111
32. DUKE PACIFIC, INC., 06-R3D3-5175 THROUGH 5177
33. DUKE PACIFIC, INC., 08-R3D3-574
34. DUININCK BROS., INC., 06-R4D3-2871
35. EPSILON ELECTRONICS, INC. DBA POWER ACOUSTIK ELECTRONICS,
09-R6D2-2325 THROUGH 2332
36. ESTENSON LOGISTICS LLC 05-R1D4-1755 AND 1756
37. EZ MIX, INC., 08-R4D3-1898
38. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
39. FORTUNA IRON WORKS 06-R2D3-4222
40. G.T. ALDERMAN, INC., 05-R4D3-3513
41. GENERAL TRUSS CO. INC., 06-R2D1-783 AND 784
42. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
43. GRANITE ROCK COMPANY, 08-R1D3-3675 THROUGH 3678
44. HB PARKCO, 07-R4D2-1730 AND 1731
45. THE HERRICK CORP., 07-R3D1-495
46. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
47. INTERNATIONAL ALUMINUM CORPORATION, 09-R6D2-1185
48. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456
49. JENSEN PRECAST, 05-R2D1-2377

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50. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968
51. KELLY SERVICES, INC., 06-R1D2-1024
52. KINDER MORGAN ENERGY PARTNERS, LP., 05-R5D1-2013 AND 2014
53. L & S CONSTRUCTION, 10-R3D2-1822
54. LA MINA CANTINA, 09-R2D5-0039
55. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
56. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
57. LION RAISINS, INC., 08-R2D5-2253 AND 2254
58. L N I CUSTOM MANUFACTURING, 10-R6D2-9154
59. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
60. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
61. MARINE TERMINALS, 08-08-R6D2-1920
62. MICHELS CORP. DBA MICHELS PIPELINE CONSTRUCTION, 07-R5D1-4274
63. MILLENIUM GENERATION, INC., 08-R4D3-5047
64. MOOREFIELD CONSTRUCTION, INC., 10-R3D5-9207
65. MORE GUSTO CATERING DBA EL CHOLO CATERING, 10-R4D1-1298
66. NEWMAN FLANGE & FITTING COMPANY, 07-R2D4-2581 THROUGH 2583
67. NIBBI BROTHERS ASSOCIATES, INC., 07-R1D1-2494
68. PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864
69. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE CONTRACTING, INC., 08-R2D1-0025 AND 0026
70. POUK & STEINLE, INC., 09-R3D3-0491
71. R & L BROSAMER, INC., 03-R1D5-4832
72. RAMON ARANDA dba I & R PALLETS, 10-R6D5-9053

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- 73. RIEZEBOS CONSTRUCTION, INC., 08-R2D5-1730
- 74. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
- 75. SAN FRANCISCO FIRE DEPARTMENT, 09-R1D1-0655
- 76. SANTA PAULA HARVESTING, 09-R4D3-0510 THROUGH 0514
- 77. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
- 78. SHEEDY DRAYAGE COMPANY, 06-R1D4-3053 THROUGH 3055
- 79. SHIMMICK-OBAYASHI, 08-R3D3-5023 THROUGH 5025
- 80. SMUD, 08-R2D1-4887 THROUGH 4889
- 81. MARTIN J. SOLIS, DBA SOLIS FARM LABOR, 08-R2D1-3415
- 82. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR,
08-R2D1-3414 THROUGH 3418
- 83. SONORA REGIONAL MEDICAL CENTER, 10-R2D4-0162
- 84. SUNOPTA FRUIT GROUP, 09-R3D1-9245
- 85. SUNRISE GROWERES FROZSUN FOODS, 09-R4D3-2850
- 86. A. TEICHERT & SON, INC. DBA TEICHERT AGGREGATES, 09-R5D1-2443
- 87. TEICHERT & SON, INC., A CORPORATION DBA TEICHERT
AGGREGATES, 04-R5D2-850 AND 851
- 88. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION,
05-R2D4-2650 AND 2651
- 89. UNITED PARCEL SERVICE, 07-R3D3-3322
- 90. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
- 91. WINCHESTER CONSTRUCTION, 08-R4D3-4709 AND 4710

PENDING LITIGATION:

(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board

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receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

SUPERIOR COURT:

1. JERLANE, 37-2007-00056381-CU-WM-NC (01-4344/4345)
2. JERLANE, 37-2009-00059323-CU-WM-NC (08-1733)
3. E.L. YEAGER CONSTRUCTION COMPANY, INC. (DOSH v OSHAB),
34-2007-00882192-CU-WM-GDS, (01-3261)
4. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (DOSH v. OSHAB) (00-440)
5. SHIMMICK CONSTRUCTION CO., 34-2008-80000121-CU-WM-GDS (06-1136)
6. XL CONSTRUCTION, 34-2009-80000300 (08- 1191/1193)
7. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
8. WEBCOR BUILDER, INC., 34-2010-80000439 (06-R1D1-3030/3032)
9. WPCS INTERNATIONAL SUISUN CITY, INC., 34-2010-80000430
(09- 9280/9281)
10. FRESNO PRODUCE, CO., INC., 10CECG02394 (10-R6D1-9064)
11. GRANITE CONSTRUCTION CO., INC., (DOSH V OSHAB) 34-2010-800006047
(07-R5D1-3611)
12. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP, 34-2010-
80000640 (08-R2D1-0027 THROUGH 0030)
13. EMERSON RUSSELL MAINTENANCE CO., RG-10543219 (08-R1D4-4167)
14. SMUD, 34-2010-80000723 (08-R2D1-4887)
15. CAL ENERGY OPERATING CORP., 34-2010-80000735 (09-R3D2-3675 & 3676)
16. BAY AREA RAPID TRANSIT DISTRICT, 34-2011-80000819 (08-R1D1-5170)
17. MASCON, INC., 34-2011-80000820 (08-R2D1-4178 AND 4279)
18. RATTO BROS., INC., 663050 (10-R6D3-9291)

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LEGISLATION

(Review and discuss current legislation which may affect the Appeals Board)

1. SENATE BILL 829

COURT OF APPEAL

1. HARRIS CONSTRUCTION COMPANY, INC., C065265 (07CS00518) (05-3914)
2. HARRIS CONSTRUCTION COMPANY, INC., C065265 (07CS00518) (05-3914)

PERSONNEL:

(Issues regarding staff)

Any matter not completed at this Closed Session may be continued to subsequent meetings.